



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MACHAKOS
CRIMINAL CASE NO. 13 OF 2019

REPUBLIC
PROSECUTOR

VERSUS

KELVIN MUENDO MUNYAO1ST
ACCUSED

HARRISON KAUMBULU2ND
ACCUSED

RULING

1. By an information filed herein dated 26th March 2019, the accused persons Kelvin Muendo Munyao and Harrison Kaumbulu are charged with the offence of murder contrary to **Section 203 as read with Section 204 of the Penal Code.**
2. The particulars of the charge are that on the 16th day of March 2019 at Iiani market, Miu Location of Mwala Sub-county within Machakos County, murdered Juma Metei Silas.

3. The accused persons pleaded not guilty to the charge following which the prosecution called twelve (12) witnesses to prove its case. Subsequently, Learned Counsel for the parties elected to make their arguments, pursuant to **Section 306(1) of the Criminal Procedure Code**, through written submissions.
4. At this stage this court is required merely to consider whether there is evidence that the accused persons committed the offence in order for it to determine whether or not to acquit them under **Section 306(1) Criminal Procedure Code** or to call upon them to enter their defence as provided in **Section 306(2) of the Criminal Procedure Code**.
5. Having considered the evidence adduced by the prosecution witnesses, the rival submissions by learned Counsel by both sides the cases cited and the law I am satisfied that there is evidence that the 1st accused killed the deceased. As for the 2nd accused whereas the fracas in his bar may have led to the assault upon the deceased by the 1st accused, there is no evidence of a common intention upon them. In the premises the 2nd accused shall be acquitted under Section 306(1) of the Criminal Procedure Code.

6. The 1st accused shall be required to enter his defence in accordance with Section 306(2) of the Criminal procedure Code.
7. Reasons for the ruling shall be further explained in the final judgment.

Orders accordingly.

Ruling Dated, Signed and Delivered Virtually on this 18th day of December, 2025.

**E. N. MAINA
JUDGE**

IN THE PRESENCE OF:

Ms Kaburu for State

Mr. Nabende for the 1st accused

Mr. Musya for the 2nd accused

Both Accused persons

Geoffrey - Court Assistant/Interpreter